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## NOTICE OF ALLOWANCE AND FEE(S) DUE

34872

7590

05/20/2009

Basell USA Inc.  
Delaware Corporate Center II  
2 Righter Parkway, Suite #300  
Wilmington, DE 19803

EXAMINER

LEE, R P A

ART UNIT

PAPER NUMBER

1796

DATE MAILED: 05/20/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,858	05/27/2005	Luigi Resconi	FE 6071 (US)	4410

TITLE OF INVENTION: PROCESS FOR PREPARING 1-BUTENE POLYMERS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$1400	\$1510	08/20/2009

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER:** Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

# **PART B - FEE(S) TRANSMITTAL**

**Complete and send this form, together with applicable fee(s), to:** **Mail** **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
**or Fax** **(571)-273-2885**

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

34872 7590 05/20/2009  
 Basell USA Inc.  
 Delaware Corporate Center II  
 2 Righter Parkway, Suite #300  
 Wilmington, DE 19803

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/536,858	05/27/2005	Luigi Resconi	FE 6071 (US)	4410
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TITLE OF INVENTION: PROCESS FOR PREPARING I-BUTENE POLYMERS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$0	\$1400	\$1510	08/20/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
LEE, RIP A	1796	526-160000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.  
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_  
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_  
 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee  
☐ Publication Fee (No small entity discount permitted)  
☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.  
☐ Payment by credit card. Form PTO-2038 is attached.  
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Typed or printed name \_\_\_\_\_ Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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10/536,858

05/27/2005

Luigi Resconi

FE 6071 (US)

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05/29/2009

EXAMINER

LEE, RJP A

ART UNIT

PAPER NUMBER

1796

DATE MAILED: 05/20/2009

Basell USA Inc.  
Delaware Corporate Center II  
2 Righter Parkway, Suite #300  
Wilmington, DE 19803

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 0 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 0 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

**Notice of Allowability****Application No.**

10/536,858

**Applicant(s)**

RESCONI ET AL.

**Examiner**

RIP A. LEE

**Art Unit**

1796

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 13 May 2009.
2. ☒ The allowed claim(s) is/are 1-7, 9 and 12-14.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

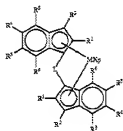
/David Wu/  
Supervisory Patent Examiner, Art Unit 1796

Art Unit: 1796

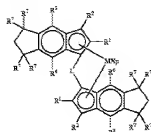
*Allowable Subject Matter*

The following is an examiner's statement of reasons for allowance: Claims 1-7, 9, and 12-14 are allowed over the closest references cited below.

The present invention is drawn to a process for preparing 1-butene polymer optionally containing up to 30 mole % of derived units of ethylene, propylene, or an alpha olefin of formula  $\text{CH}_2=\text{CHZ}$ , wherein Z is a  $\text{C}_3\text{-C}_{10}$  alkyl group comprising polymerizing 1-butene and optionally ethylene, propylene or said alpha olefin in the presence of a catalyst system obtained by contacting at least a metallocene compound of formula (I) and an aluminoxane or a compound that forms an alkylmetallocene cation; the compound of formula (I) is a group 4 metallocene possessing a  $\text{Si}(\text{R}^8)_2$  bridged *bisindenyl* core in which substituents  $\text{R}^1$  are linear or branched  $\text{C}_1\text{-C}_{20}$  alkyl,  $\text{C}_3\text{-C}_{20}$  cycloalkyl,  $\text{C}_6\text{-C}_{20}$  aryl,  $\text{C}_7\text{-C}_{20}$  alkylaryl or  $\text{C}_7\text{-C}_{20}$  arylalkyl radicals and substituents  $\text{R}^4$  and  $\text{R}^5$  together form a condensed saturated or unsaturated  $\text{C}_3\text{-C}_7$  membered ring; see claims for full structural details.

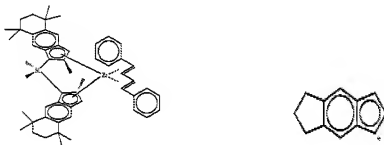


Another aspect of the invention is a metallocene compound of formula (IIb) and a process for making a said metallocene compound; the compound of formula (IIb) is a group 4 metallocene possessing a  $\text{Si}(\text{R}^8)_2$  bridged *bisindacenyl* core in which substituents  $\text{R}^1$  and  $\text{R}^7$  are linear or branched  $\text{C}_1\text{-C}_{20}$  alkyl,  $\text{C}_3\text{-C}_{20}$  cycloalkyl,  $\text{C}_6\text{-C}_{20}$  aryl,  $\text{C}_7\text{-C}_{20}$  alkylaryl or  $\text{C}_7\text{-C}_{20}$  arylalkyl radicals; see claims for full structural details.



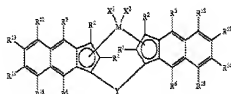
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Chen *et al.* (U.S. 6,084,115; WO 99/46270) teaches a series of bridged group 4 metallocenes containing a neutral diene ancillary ligand. The tetrahydro-1H-benzo[*f*]indenyl zirconocene complex shown below, left, is representative. The reference also teaches a series of bridged group 4 complexes containing an indacene structure, shown below, right, for the carbocyclic ligand. Representative compounds include  $\text{Me}_2\text{Si}(2\text{-Me-indacen-1-yl})_2\text{Hf}(1,4\text{-Ph}_2\text{-butadiene})$  and  $\text{Me}_2\text{Si}(2,3\text{-Me}_2\text{-indacen-1-yl})_2\text{Hf}(1,4\text{-Ph}_2\text{-butadiene})$ .



Butadiene complexes exist in the +2 formal oxidation state, and accordingly, compounds of the prior art do not meet the structural requisites set forth in instant claims.

Kawasaki *et al.* (U.S. 6,723,794) teaches a process for preparation of an ethylene/ $\alpha$ -olefin/non-conjugated diene copolymer rubber in the presence of metallocene catalysts. Inventors contemplate use of a series of bridged metallocenes containing a 5,6-benzoindenyl (also labeled benzo[*f*]indenyl) carbocyclic moiety.



The reference does not teach or fairly suggest a process of polymerization of butene as recited in instant claims.

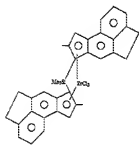
Tatsumi *et al.* (WO 98/55520; U.S. 6,573,352) discloses use of  $\text{Me}_2\text{Si}(2\text{-Me-5,6-benzoindenyl})_2\text{ZrCl}_2$  as a catalyst component for preparation of propylene copolymer having graft chains of a copolymer of propylene with ethylene and/or  $\alpha$ -olefins having four or more carbon atoms. The reference does not teach the claimed process for preparing butene polymer.

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Halterman *et al.* (*J. Organomet. Chem.*, 1998) teaches a *bis*indacenyl complex in which carbocyclic ligands are linked by a 1,2-phenylene bridging unit. The reference does not teach complexes having the structure defined by general formula (IIb).

Applicant's arguments with respect to the rejection of claims over Rohrmann *et al.* (U.S. 5,455,366) have been fully considered and are persuasive. Definitions of  $R^3$  and  $R^7$  would preclude the acenaphthindenyl ligand framework presented in Rohrmann *et al.* Accordingly, the has been withdrawn.

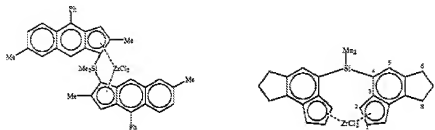
Rohrmann *et al.* (U.S. 5,455,366) discloses the compound *rac*-Me<sub>2</sub>Si(2-Me- $\alpha$ -acenaphthindenyl)ZrCl<sub>2</sub>, shown below. The compound possesses the requisite 5,6-cyclotetramethylene group, however, instant claims exclude an additional annelated aromatic ring since substituent  $R^3$  is hydrogen or hydrocarbyl radical.



Fritze *et al.* (U.S. 6,124,231) discloses the compound Me<sub>2</sub>Si(2-Me-5,6-benzindenyl)<sub>2</sub>ZrMe<sub>2</sub> as one of many possible metal components for making catalysts of the invention. One of ordinary skill in the art would not have found it obvious to arrive at the process of the instant claims because there is no motivation to replace the non-aluminoxane co-catalysts, which is the special feature of the invention, with aluminoxane. It is less obvious to select this particular benzindenyl complex (it is the only 5,6-benzindenyl compound listed among many 4,5-benzindenyl compounds) and to use it in a process for polymerizing 1-butene, based on the general teachings of Fritze *et al.*

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Hashimoto *et al.* (U.S. 6,156,844) discloses a series of substituted,  $\text{Me}_2\text{Si}$ -bridged, *bis*(benzo[*f*]indenyl) zirconium dichlorides as catalyst components for polymerization of propylene. The compound shown below is representative.



Inventive polypropylenes do contain not more than 10 mole % of comonomer. The reference does not teach the process of the instant claims, and one of ordinary skill in the art would not have found it obvious to modify the invention to make a polymer of 1-butene containing, optionally, up to 30 mole % of comonomer. Hashimoto *et al.* also teaches a  $\text{Me}_2\text{Si}$ -bridged *bis*indenyl complex, shown above. The complex does not meet the structural features set forth in general formula (IIb).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



Art Unit: 1796

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

/Rip A. Lee/  
Examiner, Art Unit 1796

May 18, 2009

/David Wu/  
Supervisory Patent Examiner, Art Unit 1796